



**Billing Code 4310–55**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[Docket No. FWS–R2–ES–2013–0134]; [FXES11120200000F2–145–FF02ENEH00]**

**Notice of Intent to Prepare an Environmental Impact Statement for a Habitat Conservation Plan for Commercial Developments, Including Energy Developments, and Agricultural and Conservation Activities within Six States**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent; announcement of public scoping meetings; request for comments.

**SUMMARY:** We, the Fish and Wildlife Service, as lead agency, intend to prepare an environmental impact statement (EIS) on a proposed application for an Incidental Take Permit (ITP), including a Habitat Conservation Plan (HCP), under the Endangered Species Act of 1973, as amended (ESA). The potential ITP is directed to the lesser prairie-chicken, a species currently proposed to be listed as threatened pursuant to the

ESA. The potential ITP includes activities that cover regional construction, operation, and maintenance associated with multiple commercial energy facilities and agricultural activities (e.g. farming, ranching) and conservation management activities within portions of six States (Colorado, Nebraska, Kansas, New Mexico, Oklahoma, and Texas). We provide this notice to (1) describe the proposed action; (2) advise other Federal and state agencies, potentially affected tribal interests, and the public of our intent to prepare an EIS; (3) announce the initiation of a 30-day public scoping period; and (4) obtain suggestions and information on the scope of issues and possible alternatives to be included in the EIS.

**DATES:** *Comments:* We will accept comments received or postmarked on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date. Any comments that we receive after the closing date may not be considered.

*Scoping Meetings:* We will hold public meetings within the proposed permit area. Written comments will be accepted at each meeting.

Notice of the exact meeting dates, times, and locations will be published at least 2 weeks before the event in local newspapers and on the Service's web site, <http://www.fws.gov/southwest/>.

**ADDRESSES:** You may submit written comments by one of the following methods:

- *Electronically:* Go to the Federal e-Rulemaking Portal:

<http://www.regulations.gov>. In the Search box, enter **FWS–R2–ES–2013–0134**, which is the docket number for this notice. On the left side of the screen, under the Document Type heading, click on the Notices link to locate this document and submit a comment.

- *By hard copy:* Submit by U.S. mail or hand-delivery to Public Comments Processing, Attn: **FWS–R2–ES–2013–0134**; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

Please note that your comments are in regard to the EIS for the Stakeholder Conservation Strategy/American Habitat Center Habitat Conservation Plan.

We request that you send comments only by one of the methods described above. We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Public Availability of Comments** section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Allison Arnold, at 512–490–0057, ×242 (telephone), or [Allison\\_Arnold@fws.gov](mailto:Allison_Arnold@fws.gov) (email). Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8337 for TTY assistance.

## **SUPPLEMENTARY INFORMATION:**

### **Introduction**

Under the National Environmental Policy Act (42 U.S.C. 4321, et seq.; NEPA) of 1969, as amended, we, the U.S. Fish and Wildlife Service (Service), as lead agency, advise the public that we intend to prepare an environmental impact statement (EIS) on a proposed application for an incidental take permit (ITP), including a Habitat Conservation Plan (HCP) under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.; ESA), and seek public input prior to developing a draft EIS for the potential issuance of an ITP.

The potential ITP is directed to the lesser prairie-chicken (*Tympanuchus pallidicinctus*) a species currently proposed to be listed as threatened pursuant to the Endangered Species Act of 1973, as amended (ESA). The potential ITP would include activities that cover regional construction, operation, and maintenance associated with multiple commercial energy facilities and agricultural activities (e.g. farming, ranching), and conservation management activities within portions of six States (Colorado, Nebraska, Kansas, New Mexico, Oklahoma, and Texas). The lesser prairie-chicken has some likelihood of being affected by the applicant's activities within the proposed permit area.

The intended effect of this notice is to gather information from the public to develop and analyze the effects of the potential issuance of an ITP that would facilitate development and agricultural production within the planning area, while minimizing

incidental take and mitigating the effects of any incidental take to the maximum extent practicable.

### **Reasonable Accommodations**

Persons needing reasonable accommodations in order to attend and participate in the public meetings should contact the Service at the address above no later than 1 week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

### **Background**

Section 9 of the ESA and its implementing regulations prohibit take of animal species listed as endangered or threatened. The definition of take under the Act includes the following activities: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1538). Section 10 of the ESA, 16 U.S.C. 1539, establishes a program whereby persons seeking to pursue activities that are otherwise legal, but could give rise to liability for unlawful take of federally protected species, may receive an ITP, which provides incidental take authorization to the ITP holder. To obtain an ITP, an applicant must submit an HCP containing measures that would minimize incidental take, including avoidance, and mitigate for the effects of any incidental take to the maximum extent practicable, and ensure that the taking is incidental to, and not the purpose of, an otherwise lawful activity (16 U.S.C. 1539(a)(1)(B) and 1539(a)(2)(A)).

### **Applicant's Proposed Habitat Conservation Plan**

A diverse group of stakeholders representing energy, agricultural, and conservation industries and organizations (Stakeholders) across five States within the occupied range of the lesser prairie-chicken, as well as Nebraska, have come together to develop a range-wide conservation plan: the Stakeholder Conservation Strategy for the lesser prairie-chicken. The Strategy contains three primary components: the Habitat Exchange (“Exchange”) for the lesser prairie-chicken, the Habitat Quantification Tool (HQT) and the Regional Habitat Conservation Plan for the lesser prairie-chicken (HCP). The HCP will reference the HQT as the means for determining debits and will identify the Exchange as the primary means of meeting mitigation obligations.

The HCP and associated permit, if approved, would have sufficient “take” authorization to allow agriculture, energy industry development, and other activities to continue should the lesser prairie-chicken become listed. The ITP is being sought by a group of energy industry companies and agricultural and conservation organizations formed in 2013 to develop the Stakeholder Conservation Strategy (SCS) for the lesser prairie-chicken. Member entities include: Colorado Cattlemen’s Association, Kansas Farm Bureau, Oklahoma Farm Bureau, Texas and Southwestern Cattle Raisers Association, Texas Farm Bureau, Plains Cotton Growers, Texas Wheat Growers Association, Texas Watershed Management Foundation, Environmental Defense Fund, The Nature Conservancy, Oklahoma State University, United States Department of Agriculture /Agricultural Research Service, Colorado Parks and Wildlife, British Petroleum, Chesapeake, Chevron, SandRidge, and, XTO Energy/ExxonMobil. Additional companies or organizations may become involved as the planning process

proceeds. Entities wishing to gain regulatory assurances and coverage under an incidental take permit may enroll in the HCP.

The HCP will contain a multifaceted approach, including but not limited to take avoidance, minimization of take (e.g., through proven and defined best management practices), and mitigation of the impacts of take through habitat preservation, restoration, and enhancement measures. The applicant must also ensure that adequate funding for implementation, including biological and compliance monitoring, is provided.

Currently, the HCP contemplates effects from covered activities to the lesser prairie-chicken, currently proposed for listing as a threatened species. The final list of covered species may include additional species based on the outcome of this planning process.

The proposed planning area is defined as the occupied range of the lesser prairie-chicken, including portions of New Mexico, Colorado, Kansas, Oklahoma, and Texas. In addition, the planning area includes areas outside of the occupied range where populations could expand with appropriate conservation initiatives attempting to accomplish population expansion. This would extend the planning area beyond the five States listed above to include portions of Nebraska.

## **Environmental Impact Statement**

The Service will be the lead Federal agency in the preparation of the EIS to satisfy the requirements of NEPA. With this notice of intent (NOI), we ask other Federal, State, tribal, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EIS.

Agencies that would like to request cooperating agency status on the EIS should follow the instructions for filing comments provided under the **ADDRESSES** section, above.

The EIS will consider the proposed action (the issuance of a section 10(a)(1)(B) ITP, as supported by an HCP), no action (no HCP/no ITP), and a reasonable range of alternatives that accomplish the Service's purpose and need in reviewing this proposal. A detailed description of the proposed action and alternatives will be included in the EIS. The alternatives currently considered for analysis in the EIS may include, but are not limited to, modified lists of covered species, differing land-coverage areas, activities that may be covered, and a variety of permit structures under consideration for the conservation program, described below in the Public Comment section. The EIS will also identify potentially significant impacts on biological resources, land use, air quality, water quality, water resources, economics, and other environmental/historical resources that may occur from issuance of the ITP; indirect impacts as a result of implementing a proposed HCP, including any of the alternatives; and cumulative impacts. Various strategies for avoiding, minimizing, and mitigating the impacts of incidental take will also be considered.

Environmental review of the EIS will be conducted in accordance with the requirements of NEPA, its implementing regulations (40 CFR 1500–1508), other applicable regulations, and our procedures for compliance with those regulations. We furnish this notice in accordance with 40 CFR 1501.7 and 1508.22 to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives they believe need to be addressed in the EIS. We invite comments from



interested parties to ensure that the full range of issues related to the proposed permit application is identified.

### **Public Comments**

We are requesting information from other interested government agencies, Native American Tribes, the scientific community, industry, or other interested parties concerning the following areas of analysis: Vegetation, Wildlife and Aquatic Resources, Special Status Species, U.S. Wetlands and Waters, Archeology, Architectural History, Sites of Religious and Cultural Significance to Tribes, Noise and Vibration, Visual Resources and Aesthetics, Economics and Socioeconomics, Environmental Justice, Air Quality (including greenhouse gas emissions and climate change), Geology and Soil, Land Use, Transportation, Infrastructure and Utilities, Hazardous Materials and Solid Waste Management, and Human Health and Safety.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, will not provide information useful in determining the issues and the impacts to the human environment in the draft EIS. The public will also have a chance to review and comment on the draft EIS when it is available (a notice of availability will be published in the Federal Register).

You may submit your comments and materials by one of the methods described above under the ADDRESSES section at the beginning of this notice. Written comments will also be accepted at the public meetings, although these public meetings are primarily

intended to provide additional information and provide a chance for the public to ask specific questions concerning the proposed HCP and EIS.

### **Public Availability of Comments**

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that the entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

### **Authority**

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 et seq.) and its implementing regulations (50 CFR 17.22) and the National Environmental Policy Act (42 U.S.C. 4721 et seq.) and its implementing regulations (40 CFR 1506.6).

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**Joy E. Nicholopoulos**

**Acting Regional Director, Southwest Region,**

**Albuquerque, New Mexico**

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